

**STATE OF MICHIGAN**  
**DEPARTMENT OF LABOR & ECONOMIC GROWTH**  
**OFFICE OF FINANCIAL AND INSURANCE REGULATION**  
**Before the Commissioner of Financial and Insurance Regulation**

In the matter of

XXXXX

Petitioner

File No. 90734-001

v

Blue Care Network of Michigan  
Respondent

Issued and entered  
this 18<sup>th</sup> day of August 2008  
by Ken Ross  
Commissioner

**ORDER**

**I**  
**PROCEDURAL BACKGROUND**

On July 2, 2008, XXXXX (Petitioner) filed a request for external review with the Commissioner of the Office of Financial and Insurance Regulation under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* On July 9, 2008, after a preliminary review of the material submitted, the Commissioner accepted the request for external review.

The issue in this matter can be resolved by analyzing the Blue Care Network "BCN10" certificate of coverage and its related "Healthy Blue Living" rider. It is not necessary to obtain a medical opinion from an independent review organization. The Commissioner reviews contractual issues under MCL 500.1911(7).

**II**  
**FACTUAL BACKGROUND**

Effective January 1, 2007 the Petitioner was conditionally enrolled in Blue Care Network's Healthy Blue Living program which is described in the rider as:

the BCN coverage program designed to promote or maintain good health and/or prevent disease or the progression of disease for members in the

Program. The program rewards Members that maintain or adopt healthier behaviors by making lower copayments, and or coinsurance and deductibles available to those Members.

These enhanced benefits are available to members who achieve 80 points on BCN's Health Living enrollment form. BCN terminated the Petitioner's enrollment in the Healthy Blue Living program on March 31, 2008 and returned him to the standard plan. Petitioner unsuccessfully appealed his termination from the program. Petitioner exhausted BCN's internal grievance process and has received its final determination letter dated June 19, 2008.

### **III ISSUE**

Did BCN properly deny the Petitioner continued coverage in the Healthy Blue Living program?

### **IV ANALYSIS**

#### **Petitioner's Argument**

The Petitioner wants retroactive coverage in the Healthy Blue Living program effective March 31, 2008. He admits that he failed to complete the health risk assessment in the allowed time, but would like special consideration to be placed back into the enhanced plan. He says he thought he did what was necessary to remain in the enhanced plan. However, he did not have a copy of his previous health risk assessment as it was done on-line. Therefore, he had nothing to remind him he needed to do it again. He had been in Florida for the winter and he and his wife came home purposely to update their physicals and take care of needed paperwork.

The Petitioner is therefore asking that BCN reinstate his family's enrollment in the Healthy Blue Living program.

#### **Respondent's Argument**

In its final adverse determination, BCN denied Petitioner participation in the Healthy Blue Living program beyond March 31, 2008, telling the Petitioner, "The required documentation to

remain in the Enhanced benefit level was not submitted within the required time period. Therefore, we have maintained our decision, and your contract will remain in the Standard benefit level. You may re-apply for our enhanced benefit at your next open enrollment.”

### Commissioner's Review

The issue in this case is whether BCN properly denied continued coverage in its Healthy Blue Living rider's enhanced benefit program. The rider describes the requirements for continuing coverage in the HBL program after 90 days. The rider includes the following provision:

#### **HOW TO EARN THE HEALTHY LIVING ENHANCED BENEFITS IN THE FIRST YEAR OF ENROLLMENT**

Upon enrollment each Healthy Living Eligible Member will receive Enhanced Benefits for a 90-day period. To continue receiving the Enhanced Benefits each Healthy Living Eligible Member must take the following steps:

1. Within 90 days of enrollment each Healthy Living Eligible Member must complete a Health Risk Assessment (HRA) and a Healthy Living Enrollment Form which will assess the Member's medical condition and/or lifestyle behavior in relation to the following areas:
  - Blood pressure
  - Smoking
  - Cholesterol
  - Blood sugar
  - Weight
  - Alcohol use

BCN notes that the Petitioner's enrollment was effective January 1, 2008. This enrollment was contingent on the Petitioner meeting the requirements of the rider listed above by March 31, 2008, to remain in the enhanced plan. The Petitioner has acknowledged that he failed to submit his health risk assessment prior to the March 31, 2008 due date. BCN notes in its grievance summary that the Healthy Blue Living members were given ample notice of the renewal requirements including a renewal kit mailing, two reminder letters, and a telephone reminder.

The Commissioner is sympathetic to the Petitioner's circumstances. However, the Commissioner is unable to order the remedy sought by the Petitioner. Under the Patient's Right to Independent Review Act, the Commissioner's role is limited to determining whether BCN properly administered the benefits under the terms and conditions of the Petitioner's certificate and its riders and state law. Nothing in the certificate or state law requires BCN to waive its time limits in this case. The Commissioner finds that BCN's denial is consistent with its Healthy Blue Living rider.

**V  
ORDER**

The Commissioner upholds BCN's June 19, 2008, final adverse determination. BCN's denial to reinstate the Petitioner's enrollment in the Healthy Blue Living program is consistent with the rider.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.